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In re Application of	:	
SEIKI, Motoharu	:	
Serial No.: 09/806,232	:	DECISION VACATING
PCT No.: PCT/JP99/05349	:	
Int. Filing Date: 29 September 1999	:	NOTIFICATION OF MISSING
Priority Date: 29 September 1998	:	
Atty. Docket No.: 1241.18	:	REQUIREMENTS
For: DNA ENCODING NOVEL	:	
POLYPEPTIDES	:	

This application is before the PCT Legal Office.

**BACKGROUND**

On 29 September 1999, applicant filed international application no. PCT/JP99/05349 which claimed a priority date of 29 September 1998. The international application listed Motoji Seiku as applicant/inventor. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States at midnight on 29 March 2001.

On 28 March 2001, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; a preliminary amendment; and a declaration and power of attorney executed by Motoharu Seiki.

On 30 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b), and that a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Furthermore, the Notification stated that the sequence listing was not in compliance with 37 CFR 1.821-1.825.

On 18 July 2001, applicant filed a declaration and power of attorney.

On 14 September 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b), and that a new oath or declaration in compliance with 37

CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the priority date was required. Specifically, the declaration was not in compliance with 37 CFR 1.497(a) and (b) because it did not identify the inventor as published in the international application. Furthermore, it was noted that the sequence listing was not in compliance with 37 CFR 1.821-1.8245.

### DISCUSSION

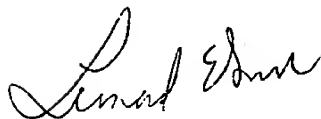
On 18 July 2001, applicant submitted a Declaration and Power of Attorney executed by Motoharu Seiki which states, "I, Motoharu Seiki declares that PCT/JP99/05349 was submitted with the correct Kanji character for Motoharu. The Kanji character was mistranslated by the PCT in Geneva and printed as 'Motoji' in WO00/18900. However, the Kanji character was correctly translated as 'Motoharu' in the 09/806,332[sic] application papers." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required. Accordingly, applicant's explanation of the difference in the spelling of the inventor's name is accepted and noted for the record.

### CONCLUSION

A review of the application file reveals that a declaration in compliance with 37 CFR 1.497 was received in the Patent and Trademark Office on 28 March 2001. In view of the declaration filed 28 March 200, the Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) is hereby **VACATED**.

It is noted that applicant has not submitted a sequence listing in compliance with 37 CFR 1.821-1.8245. The time limit set forth in the Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) remains in effect.

This application is being returned to the United States/Elected Office for processing in accordance with the decision.



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